

EMERGENCY PERIOD

ENSURING FAIR,
TRANSPARENT
PROCESS

An independent special committee will be set up under ordinance to advise king, says PM

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AN independent special committee will be established to ensure the fair and transparent implementation of the Emergency period.

Prime Minister Tan Sri Muhyiddin Yassin said the committee would be established under an ordinance promulgated by Yang di-Pertuan Agong Al-Sultan Abdullah Ri'ayatuddin Al-Mustafa Billah Shah.

"To ensure the fair and transparent implementation of the Emergency period, an independent special committee will be established under an ordinance to advise His Majesty whether to continue the Emergency in the federation or terminate the proclamation earlier than the designated date."

He said it would also be up to the committee to decide whether the pandemic had fully subsided

and that it was safe to hold any election.

Meanwhile, the administrative machinery will resume as usual amid the state of emergency.

Chief Secretary to the Government Tan Sri Mohd Zuki Ali, in a statement yesterday, said the public and private sectors would operate as usual while adhering to the standard operating procedures of the Movement Control Order.

"The state of emergency will be until Aug 1 or expire at an earlier date if the Covid-19 cases could be effectively reduced.

"The current situation differs from the Emergency Proclamation in 1969, which was triggered by security threats and required tougher security measures to control the tense situation.

"This time, it is to stem the spread of Covid-19, which poses a risk to the three fundamental elements enshrined in Article 150 of the Federal Constitution.

"This measure will ensure the country's stability and allow the government to stay focused on reviving the economy and sustaining the wellbeing of the people."

Zuki said all civil servants were committed to ensuring that the government's delivery service remained intact, in accordance with the laws and policies. **Additional reporting by Dhesegaan Bala Krishnan**



Officers assisting visitors at the Employees Provident Fund headquarters in Kuala Lumpur last week. All civil servants are committed to ensuring that the delivery service remains intact during the Emergency period. PIC BY ASWADI ALIAS

STATE OF EMERGENCY
IN MALAYSIA (JAN 12 - AUG 1)

Article 150 of the Federal Constitution gives the Yang di-Pertuan Agong the power to declare a state of emergency, following advice of the prime minister and members of his cabinet. However, the king must be satisfied with evidence that there is a grave emergency, whereby the security, economic life or public order in the federation is threatened. The Agong will issue a Proclamation of Emergency and it will go into effect after such announcement.

CURFEW? No.

WILL PARLIAMENT SIT? No.

WILL STATE ASSEMBLIES CONVENE? No.

WILL A GENERAL ELECTION BE HELD DURING THE EMERGENCY PERIOD? No.

WILL A GENERAL ELECTION BE HELD AFTER THE EMERGENCY PERIOD?

Yes. The prime minister has pledged that polls will be held when an independent committee, comprising government and opposition members of parliament, acknowledges that the Covid-19 pandemic has fully subsided.

DURATION?

Until Aug 1, or an earlier date, if the daily number of positive Covid-19 cases can be controlled and effectively lowered.

According to Article 150 of the Federal Constitution, no time frame is provided and it does not explicitly mention the issue of annulling the Proclamation of Emergency — when and by whom. Article 150(3) indirectly states, "A Proclamation of Emergency and any ordinance promulgated under Clause (2B)... shall cease to have effect if resolutions are passed by both Houses annulling such Proclamation..." This underlined phrase indicates that the annulment of a proclamation and emergency laws made by the king can be made through a resolution approved by both Houses of Parliament.



IMPACT?

The Constitution will be suspended and the administration of the nation will be managed by the executive. Which means, all government matters will go on as usual.

The military may also take the lead in matters relating to security if need be, especially if the Emergency declared is due to threats against national security.

When a Proclamation of Emergency is in force, the federal executive powers "cover all provisions under the state legislative powers with the executive to issue instructions to the state governments or any officer or state authority [Article 150(4)].

MORE ON STATE OF EMERGENCY

1 What happens to the ordinance made during Emergency?

The ordinance promulgated by the king can be enforced and is effective as if it were an act of Parliament. It can be effective until it is annulled.

After Parliament convenes, the ordinance promulgated by the king shall be tabled before both Houses of Parliament. The ordinance can be continued if approved and must be stopped if it is not approved by Parliament.

If the ordinance is not passed by Parliament, it does not affect anything that happened before under the enforcement of the Proclamation of Emergency or ordinance.

2 When was Parliament last suspended due to a declaration of Emergency?

Parliament has only been suspended once in Malaysian history following the May 13 racial riots in 1969. It led to the suspension of Parliament for two years and the formation of an emergency administrative

body aimed at restoring law and order to the country.

From 1969 to 1971, our nation was administered by the National Operations Council in lieu of the elected government.

3 How many times has an Emergency been declared in the country?

Four:

- In 1964 to deal with the Indonesian confrontation.
- In 1966 to rid of Sarawak chief minister at the behest of the Federal Government.
- In 1969 in the aftermath of the May 13 racial riots.
- In 1977 as a result of the collapse of the Kelantan government then headed by Datuk Mohamed Nasir.

4 What happens when Parliament returns?

When Parliament resumes, there is a State Opening of Parliament during which the king reads a speech that sets out the government's legislative programme for the next year.

5 What happens to the 2021 Budget?

The distribution of the 2021 Budget, which was passed in the Dewan Rakyat last year, will proceed as usual.

However, if necessary, the Yang di-Pertuan Agong may promulgate any ordinance when the two Houses of Parliament are absent or not sitting concurrently. If he is satisfied and it is necessary to promulgate any expenditure of the country, he may do so.

But every ordinance made by the king must be tabled in both Houses of Parliament when the two convenes concurrently. The ordinance can be unravelled by a resolution made by Parliament.

6 Which other countries have recently declared an Emergency over Covid-19?

Since last year, about 80 countries, including Spain, France, Belgium, Romania and Japan, have declared a state of emergency for a certain period of time.

Sources: Federal Constitution, Parliament, NST, Bernama, legal expert Datuk Dr Gurdial Singh Nijar, International Islamic University Malaysia legal adviser Prof Dr Nik Ahmad Kamal Nik Mahmud and constitutional expert Associate Prof Dr Shamrahayu A.

